

# Integration of Community-based Conservation Approaches to Wildlife and Forest Laws

## Emerging Legislation and Policies in Neighbouring Countries

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### Introduction

We are all aware of the emerging concepts in conservation. These concepts are not merely developing on paper but have taken root at ground level. I am referring to the community approach to conservation. We are all familiar with the successes this concept has gained in some countries of south and south-east Asia. India, Nepal, and Thailand are some of the countries that have seen the inception and strengthening of the community approach.

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Some countries have formulated new policies and amended their laws in the wildlife and forestry sector, which reaffirms the strengths and advantages of this approach to conservation. Until recently conservation-related laws and policies had ignored the fact that wildlife areas, besides serving as habitats for wild animals and plants, also harbour a large human population of forest dwellers, especially in developing countries. These local people have lived in the forest and survived on forest produce for centuries. Such peoples' existence, knowledge, practices, rights, and sense of responsibilities, which have often governed the management of their environs, have usually been completely ignored by the authorities.

In this paper I refer to some of the relevant concepts that are gaining popularity in Asian countries.

Concepts in the forestry sector include community forestry (CF) and joint forest management (JFM) and in the protected area sector they include conservation areas, buffer zones, biosphere reserves, ecodevelopment programmes in the buffer zone of protected areas, community reserves, and conservation reserves.

### Historical backdrop

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Although community-based conservation seems like a novel concept to many, it is not a new one. Only the recognition it has started receiving in official circles in recent times is new. In most of these concepts we see that there is not a major shift from an earlier system of management, that is, from the system that prevailed prior to the nationalisation of forests in south Asian countries; the change has taken place in the attitudes of those who were considered to be the guardians of the resources of the

nationalised forests — the Forest Department officials. The acceptance by foresters of the role of the community in conservation of resources is new. This acceptance of the vital role of people in conservation has given impetus to community-based conservation.

Instances of community initiatives in conservation have been documented and studied and reveal initiatives in the following different circumstances.

- In areas where peoples' rights to forests were curtailed as a result of the declaration of reserved forests and protected areas, such as national parks, sanctuaries, and nature reserves, which affected the livelihood of the people.
- In forests that were declared reserved or protected but could not be actually protected by the authorities concerned due to paucity of manpower and inaccessibility of such areas.
- In areas where forests were not nationalised and remained under the control of the people.

In areas that remained under the control of people *de facto*, natural resources continued to be managed by people as per their rules and regulations despite the nationalisation of forests. But areas that came under government control and began to be governed as per state laws started to witness conflicts. Attempts were made to alienate people from the resources by fencing them off from the forests, but in the absence of alternatives, people have continued to live in and around these areas, sharing their habitat with the other inhabitants of the forest. Although in earlier times man and animal have coexisted in the forest, these days the shrinking habitats of wild animals together with an increase in human population have led to what are often termed 'people versus park' problems. To find a solution to these problems, and especially after having realised the inadequacies in state action, governments in some countries have accepted the strengths of the community for protecting the resources in their vicinity. The reason for the strength of the community-based approach is simple — the dependence of these people on the resources. This makes it different from the conventional approach to conservation.

## **Concepts Emerging Related to Forestry**

### **Community Forestry (CF)**

The growing consciousness amongst the forest bureaucracy in many countries regarding their inadequacies in meeting the objectives of forest-resource management — and success stories of community initiatives in conservation which have come to light from several countries have led foresters to take the role of the community more seriously. Nepal was the first country in the Hindu Kush-Himalayan region to amend its forest law (in 1993) to include the concept of CF.

In CF, national or government forests can be handed over to the community after they have formed forest user groups (FUGs) and have made an official request for part of the national forest to be handed over. These groups are entitled to develop, conserve, use, and manage the forest and to sell and distribute forest products independently, by fixing their prices according to the workplan prepared for this purpose with the assistance of the District Forest Officer (DFO). The FUGs are registered with the District Forest Office (DFO), which gives them a legal identity and autonomy in action. The Forest User Groups (FUGs) can generate funds from grants and donations received from the government and non-government or private sources and from collection of fines and fees. The law in Nepal gives priority to CF. The decision of His Majesty's Government of Nepal has been welcomed for its progressive attitude, as it is for the first time ever that forest authorities have handed over forests completely. There is no condition of sharing of resources by the community with the department. Thus with an increased sense of ownership of resources, there is a higher incentive to conserve.

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A group of foresters strongly favoured the involvement of people in the management of forests, a form of forestry that later came to be known as CF. By the mid-1970s policy-makers realised that participation of local people was crucial in the management of the forests on which they were dependent. Government, with financial assistance from the World Bank and other donor agencies, introduced a programme to restore the formal control of forest resources to the local communities.

So far almost 10,000 community FUGs have been formed and approximately 750,000 hectares of forest land has been brought under CF (about 17% of the total forest area of Nepal).

Community forestry has been described as community development with a special emphasis on forestry. While the master plan of the forestry sector made it obligatory for users to spend income derived from the forests on forest improvement, the Forest Act of 1993 deviated from this guideline stating that surplus income of the FUGs can be used for development activities other than forestry.

There is an implicit understanding that forest personnel should act as mediators only in major conflicts and that conflicts of a minor nature should be resolved at community level. This provision is a bit weak and has led to several conflicts being left unresolved leading to further problems.

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### **Joint Forest Management (JFM) in India**

The concept of JFM in India differs only slightly from that of CF. Whereas in the CF practised in Nepal the management of the forest is handed over entirely to the community with all the benefits accruing to the community, in the case of JFM, the management of forest land is undertaken jointly by villagers and forest department employees and the benefits are shared between the two parties in a predetermined ratio. Ownership of the land is not transferred in either of the cases.

Joint forest management is a process of reforestation/regeneration of degraded forests through a partnership between foresters and forest communities, by establishing ecological and economic benefits for the community and greater society. This programme was a result of a successful experiment undertaken in a village called Arabari in south-west Bengal in 1971-1972, in which forest protection committees (FPCs) were formed by an enterprising Divisional Forest Officer, who realised that the protection of Arabari Forest was not possible without the cooperation of the local inhabitants because of their dependency on the forest's resources. It was in 1990 that the then Secretary of the Ministry of Environment and Forests issued a circular to all the forest secretaries of all states and UTs laying down guidelines on 'involving village communities and voluntary agencies in the regeneration of degraded forest lands'. Following this, most of the states and UTs of India have passed resolutions to initiate JFM in their areas. All these guidelines are in the form of executive or administrative orders with very little legal enforcement. This has been

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found to be a limitation by many forest protection committees (FPCs). Although JFM is being hailed as a positive step in forest conservation, it has not been accorded a legal status so far. But in the meantime, the Ministry of Environment and Forests has brought forth a new set of guidelines to overcome earlier weaknesses in the JFM order.

Some of the provisions as per the new guidelines are as follow.

- Registration of FPCs under the Societies Registration Act, 1860
- Committees have different nomenclatures in different states, hence it is being suggested that all such committees be called joint forest management committees (JFMCs)
- Reservation for women members in the General Body and Executive Committee
- The preparation of a micro-plan after detailed participatory rural appraisals (PRAs) reflecting the livelihood needs and provisions for meeting them
- The extension of JFM to good forest areas in a phased manner
- Creating a working group for conflict resolution at divisional and state level with representatives of stakeholders including non-government organisations (NGOs),
- The recognition of existing self-initiated groups
- Part of the revenue earned by the JFMCs should go to the village development fund.

At the time of writing, all states were expected to revise their state resolutions on JFM soon.

## **Concepts Emerging Related to Protected Areas in Wildlife Management**

### **Conservation Areas**

This concept of shifting from the conventional approach to protected area management to the community approach first took formal shape in Nepal. The third amendment, in 1989, to Nepal's National Park and Wildlife Conservation (NPWC) Act of 1973, heralded a new era in the field of protection of flora and fauna in Nepal. This legislation for the first time formally acknowledged the role of communities in resource conservation, thus replacing the notion of strict protection with that of conservation entailing sustainable use of resources by the community.

The third amendment to the NPWC Act allowed His Majesty's Government, by way of notification in the Nepal Gazette, to declare 'conservation areas' and to entrust the management of any conservation area for the period prescribed in the notification to any institution (including NGOs) established with the objective of conservation of nature and natural wealth.

The first conservation area to be officially declared was the Annapurna Conservation Area (ACA) in mid-western Nepal in 1992. But the actual management of this conservation area was assigned to the King Mahendra Trust for Nature Conservation (KMTNC), a national-level NGO, much earlier, in 1986, to initiate conservation work. The Annapurnas are one of the most popular trekking destinations in the world and visited by over 25,000 trekkers every year. This tourism pressure had taken its toll on the trekking trails and Ghandruk, being the first halting town, was most severely affected by natural resource degradation. Thus KMTNC set up their first office in Ghandruk and began their work from there. Annapurna Conservation Area covers 7,629 sq.km. A small office would not have been able to manage this area. Hence decentralised institutions in the form of Conservation Area Management Committees (CAMCs) were formed

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at the level of village development councils (elected administrative units in Nepal). The management of ACA was placed in the hands of 55 CAMCs that formed their own rules and regulations guided by the operational plan (OP). The work under the CAMCs was further divided into different subcommittees: the forest management committee; the lodge management committee; the hydropower management committee; the trail management committee; and mothers' groups.

An operational plan (OP) was drafted by the Worldwide Fund for Nature for the management of the ACA in 1986 and for almost 10 years the provisions of the OP guided the management of ACA. The management is based on a model of multiple-use zones relying to a great degree on local participation in management and development. The management zones indicated in the OP are the wilderness zone, the special-management zone, the protected-forest/seasonal-grazing zone, the intensive-use zone, and the biotic/anthropological zone. The OP regulated activities including hunting, collection of dry wood, fodder, leaf litter, bamboo, timber, medicinal plants, grazing, trekking, reforestation, and maintenance of hot springs; traditional rights were not to be restricted.

In 1993, His Majesty's Government formulated the Conservation Area Management Regulations with the intent of having formal and uniform rules for the management of conservation areas.

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The success of the Annapurna Conservation Area Project (ACAP) has been acclaimed at international level. One of the main reasons for its success is the legal status accorded to the concept, which makes it stable and secure. Declaration of four more conservation areas in Nepal has occurred more recently.

### **Buffer Zones**

A buffer zone is the peripheral zone of a national park or reserve which, when formally designated, allows local inhabitants to use forest produce. Although this concept has been talked about for many years now, Nepal is the first Himalayan country to have incorporated it into law. Nepal amended its wildlife law in 1993 to give legal recognition to the concept of the buffer zone. Provision has been made to spend 30-50% of the income of parks or reserves on development activities in the buffer zone, in coordination with local bodies. His Majesty's Government of Nepal promulgated Buffer Zone Management Regulations in 1996.

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This amendment and the new Regulations for the Management of Buffer Zones are being looked upon as a measure for improving the people-parks conflict situation in protected areas. The successes of this model of conservation in Nepal are yet to be observed, as this is a relatively new experiment in Nepal. The responsibility for the management of this area rests with the Warden.

The new regulations provide for the formation of user committees in coordination with local authorities to assist in community development

and balanced use of forest resources, and the conservation of other elements including wildlife, the natural environment and natural resources, biodiversity and forests.

Some lacunae have been observed in the regulations, which are likely to hamper their intent. The regulations provide for the preparation of the Buffer Zone Management Plan by the Warden; the plan is then sent to the Director General of the Department of National Parks and Wildlife Conservation and then to the Ministry for approval. Preparation of the Buffer Zone Management Plan does not include any involvement of the local people. Their role comes much later, in the preparation of the microplan, which is based on the Buffer Zone Management Plan.

## **Biosphere Reserves**

The United Nations Educational, Scientific and Cultural Organization (UNESCO) introduced the idea of biosphere reserves in 1973-1974 as part of its Man and Biosphere Programme.

Biosphere reserves are designated to reconcile the conservation of biodiversity, the quest for economic and social development, and maintenance of associated cultural values. Biosphere reserves are protected areas of land and/or coastal/marine environments wherein people are an integral component of the system.

The basic intention behind the declaration of biosphere reserves is to fulfil the following three functions:

- the conservation function — to ensure the conservation of landscapes, ecosystems, species, and genetic variation;
- the development function — to promote, at local level, economic development which is culturally, socially, and ecologically sustainable;
- the logistic function — to provide support for research, monitoring, education, and information exchange related to local, national, and global issues of conservation and development.

This category of protected area has received wide attention internationally. By December 1998, 356 biosphere reserves in 90 countries had been created.

India has declared seven biosphere reserves. These reserves have been established within the existing legal framework through administrative orders. Hence the legal protection afforded to these areas is limited to the extent that the boundaries coincide with those of a sanctuary or a national park. No law affording legal status to the concept of biosphere reserves has been made so far and there seems to be no attempt on the part of the Forest Department to push for any.

The central government in India has constituted a National Man and Biosphere Committee to advise on policy and programme formulation for biosphere reserves in the country, to lay guidelines for the preparation and approval of Management Action Plans, to oversee implementation and monitoring, and to evaluate and approve new biosphere reserves.

The management of biosphere reserves is guided by Management Action Plans and is based on a multiple-use, zonal principle. Biosphere reserves include a core area, a buffer zone, and a transition area. Ownership pattern varies in accordance with the zones: the core areas are under government ownership and the buffer and transition areas are usually under private and community ownership. Although the concept of biosphere reserves has yet to show signs of success in India, it has acclaimed success in many countries.

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The concept of conservation areas, as promoted initially in Nepal with the declaration of its first conservation area — Annapurna Conservation Area — in 1986, is very close to the concept of biosphere reserves.

### **Ecodevelopment**

The World Conservation Strategy proposed by the International Union for Conservation of Nature and Natural Resources (IUCN), the United Nations Environment Programme (UNEP), and the Worldwide Fund for Nature (WWF) in 1980, emphasised the importance of alleviating rural poverty as a component of conservation planning. Ecodevelopment measures were recommended to divert pressures from protected areas. This is being done in India by creation of ecodevelopment committees in fringe villages, comprising the stakeholders.

This has not been too successful, probably because it too has been based on the premise that people are a burden on forest resources and that they have to be weaned from the forest by giving them alternatives.

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The concept of ecodevelopment is based on the perception of providing benefits and concessions to local people to reduce their dependence on the forests. It still excludes these people from the process of planning the management of the protected area. There are also other flaws in the implementation of the programme. Proper resource use and need assessment is not done prior to deciding on the benefit to be provided and the process of identifying the beneficiary is usually erroneous. As long as money is poured in, there will be temporary relief (maybe) but conservation will not be ensured. In many places, these committees exist only on paper.

### **Community Reserves**

Community reserves are a new form of protected area being proposed in India. They are being proposed to ensure greater participation and decision-making by the local people.

In 1997, an amendment was proposed to the existing Wildlife (Protection) Act of India, 1972, to incorporate this new category of protected area in order to give legal recognition to the efforts of those communities who have been managing forest areas in different parts of the country for many years; for example, areas such as the north-eastern states of India, where the majority of forests are managed by the community. There are also some communities, such as the Bishnois, who are well known for traditionally conserving their forest resources.

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The amendment bill proposes to declare this new category of protected area in areas other than those that are within a national park; a sanctuary for protecting the flora, fauna, and traditional or cultural conservation values and practices, where the community or an individual has volunteered to conserve wildlife and its habitats.

The authority to oversee the management of this protected area would rest with a committee comprising five village representatives and representatives of the state forest or wildlife department. The committee would prepare and implement the Management Plan for the community reserve and take steps to ensure the protection of wildlife and its habitats in the reserve.

The committee has been given the authority to regulate its own procedures. However the amendment bill is silent on the rules and regulations that will govern the new set of protected areas, that is, community reserves and conservation reserves.

### **Conservation Reserves**

This is yet another category of protected area that is being proposed to act as a buffer to national parks and sanctuaries. This kind of protection is intended for areas lying adjacent to protected areas inhabited by a considerable human population and for areas serving as corridors between two protected areas. The government intends to conserve these areas by implementing ecodevelopment programmes and seeking the participation of local people in the conservation of the resources.

It is proposed that a Conservation Reserve Management Committee be set up to advise the Chief Wildlife Warden on conservation, management, and maintenance of the reserve. The committee will comprise officials from the forest department, local village representatives, and NGOs. In this case too the committee will have the authority to regulate its own procedures.

### **Conclusion**

The enactment of legislation empowering the community in natural resource management has certainly been a revolutionary move in Nepal, and conservation had benefited greatly. But it would be unfair and unjust if the role of agencies such as NGOs (both national and international) was not given due credit for the process. It is the unstinted conviction and constant involvement of such NGOs at different levels that has contributed to the evolution and success of community-based conservation, not only in Nepal but in India too. In India, the credit goes largely to local and community-based NGOs. We also cannot overlook the fact that the passing of amendments to the law in Nepal also reflects the political will of the country. And, in Nepal, it is not merely the political will that is visible but the bureaucratic will has also been found to be strong enough, which is evident from the enforcement of the laws there. All this together has contributed to the success of CF and conservation area management in Nepal.

Before finally concluding, I would like to outline a few points that I feel are important for Transboundary Conservation.

- If we look at the Himalayan belt, we find that there are several sets of protected areas transcending political boundaries of countries. A policy gap analysis of these protected areas that fall in different countries shows that these areas, which are rich in biodiversity, may not have the same degree of legal protection in adjacent countries. One example is Kanchenjunga protected area, which is a national park in India and has conservation area status in Nepal. Another example is Namdapha National Park in Arunachal Pradesh in India, which has the most stringent of legal protections; but on the other side of the international boundary, in Myanmar, the same area does not have protected area status. To overcome these lacunae, it is at least necessary that protected transborder areas are governed by uniform legislation. Contradictory and conflicting laws with respect to wildlife harvests, penalties, trade, customs,

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immigration, and extradition are often impediments in cooperative law enforcement.

- Very often it has been observed that people living in such bio-rich areas on either side of international borders belong to the same ethnic groups and also often have marital relationships with people in adjacent areas. Communities residing in such areas normally have their own rules and norms for the management of natural resources (including wildlife) within the area. Hence it would also be appropriate to understand these customary laws and practices, which may have some inherent conservation value. Quite often the enforcement of statutory laws in both countries is inadequate due to the remote and inaccessible terrain in the mountains and hence the laws can become quite ineffective.
- Instances have come to light where endangered species found in transfrontier areas are found to be listed in different schedules in the wildlife legislation of neighbouring countries, which implies different provisions relating to the degree of protection accorded to these animals. This could result in increased poaching in countries with a lower degree of legal protection.

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